

JAN 16 1997

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Washington, D.C.

In the Matter of)	
)	
Statutory License Terms and)	Docket No. 96-5
Rates for Certain)	CARP DSTRA
Digital Subscription)	
Transmission of Sound)	
Recordings)	
)	

**DMX INC.'S MOTION TO ACCEPT AS TIMELY FILED
DMX INC.'S REPLY TO RIAA'S OPPOSITION TO DMX INC.'S
MOTION TO COMPEL RESPONSES TO FOLLOW-UP REQUESTS**

DMX Inc., by its attorneys, hereby respectfully requests that the Copyright Office accept as timely filed DMX Inc.'s Reply to RIAA's Opposition to DMX Inc.'s Motion to Compel Responses to Follow-Up Requests ("DMX's Reply"), which was filed this morning, January 16, 1997. As explained below, DMX's Reply was intended to be filed on January 15, 1997 and inadvertently was delayed. Furthermore, RIAA's Opposition was filed on January 9, 1997, therefore DMX's Reply technically is not out of time.

Undersigned counsel completed DMX's Reply in time for filing with the Copyright Office General Counsel's Office before the close of business on January 15, 1997. Counsel requested a messenger at 3:45 p.m., with instructions that DMX's Reply must be filed with the Copyright Office by 4:45 p.m. that day. Unfortunately, the messenger got a flat tire on the way. In a further comedy of errors and misfortunes, the messenger apparently was not aware the package addressed to the Copyright Office was a "filing" and that time was of the essence. Instead of requesting a back-up messenger and/or notifying counsel of his


delay, he simply proceeded to repair his flat tire and then deliver DMX's Reply. The messenger did not arrive at the Copyright Office until shortly after 5:00 p.m. and was unable to file DMX's Reply on January 15, 1997 as intended.

Technically, DMX's Reply to RIAA's Opposition to DMX Inc.'s Motion to Compel Responses to Follow-Up Requests is timely filed as of January 16, 1997. RIAA's Opposition was not filed with the Copyright Office until January 9, 1997. Therefore, DMX's Reply, filed five business days from the January 9 filing of RIAA's Opposition, should be considered timely. See Copyright Office Notice dated July 29, 1996.

As noted on the Certificate of Service attached to DMX's Reply, RIAA and the other parties were served with DMX's Reply by hand delivery before the close of business on January 15, 1997. Therefore, the unintended delay in filing with the Copyright Office should in no way prejudice the parties nor otherwise delay these proceedings.

WHEREFORE, DMX respectfully requests that the Copyright Office accept DMX's Reply to RIAA's Opposition to DMX Inc.'s Motion to Compel Responses to Follow-Up Requests as timely filed.

Respectfully submitted,


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Counsel for DMX INC.

Date: January 16, 1997

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 1997, a true copy of the foregoing DMX Inc.'s Motion to Accept as Timely Filed DMX Inc.'s Reply to RIAA'S Opposition to DMX Inc.'s Motion to Compel Responses to Follow-Up Requests was served by facsimile upon the following:

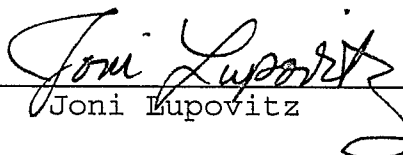
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